

ARIZONA DEPARTMENT OF ADMINISTRATION

Policies and Procedures

Subject: Basic Grievance
Supersedes: N/A

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PURPOSE:

The purpose of this policy is to establish guidelines and procedures to equitably and promptly resolve complaints concerning any and all grievable issues. The procedure may be used by any Department of Administration employee or group of employees.

POLICY:

The department, in keeping with a policy of maintaining satisfactory and efficient working conditions, shall provide a means to ensure a systematic and fair review of employee complaints and grievances. The department is committed to allow employees to seek resolutions of their concerns and problems through a formal written procedure after informal attempts have proven unsatisfactory. This grievance procedure is designed around the philosophical commitment that all problems be resolved at the lowest possible level and in an equitable and efficient manner.

Matters Subject to the Basic Grievance Procedure

1. Summary

A summary of issues which can be addressed through the Basic Grievance Procedure include, but are not limited to, the following: All allegations of discrimination; allegations of non-compliance with the Personnel Rules; improvement of systems, practices or procedures; safety; health; working conditions; materials or equipment; supervisory practices or procedures considered improper or unfair; disciplinary actions such as suspensions of 40 hours or less, reprimands or memos of concern; or any other matters subject to the authority of the ADOA Director and for which no other method of redress is provided or prohibited in the Personnel Rules.

2. Restrictions

An employee may not submit a grievance challenging the following management rights, but may submit a grievance concerning the manner of their administration, insofar as these personally affect the employee: The agency's right to direct its employees; to hire, promote, transfer, assign, and retain employees; and, to maintain efficiency of government operations, and to determine the methods, means, and personnel by which these operations are to be conducted.

An employee may submit a grievance concerning a specific performance factor rating by utilizing the EPAS Grievance Procedure. An employee may not submit a grievance concerning the receipt of a performance decrease, the non-receipt of a performance increase or special performance award, the amount of any increase or decrease, or the use of any job-related supplemental rating factors to determine the receipt or amount of an increase, decrease, or special performance award. An employee may submit a grievance using the Basic Grievance Procedure within 10 days of receipt of a planning EPAS or within 10 days of failing to receive, after written request, a planning document.

3. Non-Applicable Matters

A summary of issues which cannot be addressed through either the Basic or the EPAS Grievance Procedure, include, but are not limited to, the following: Retirement issues; life insurance or health insurance issues; suspension for more than 40 working hours, demotion, or dismissal resulting from disciplinary action; any examination, certification or appointment; any classification action; and any reduction in force action and matters not subject to the Department of Administration control. Other avenues exist to seek redress or remedy involving these actions.

General

1. Amendments

Once a grievance is referred to any step beyond the immediate supervisor, it may not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for reconsideration. It is the employee's responsibility to provide documentation to support the allegations raised in the grievance.

2. Confidentiality and Use of Official Authority

The preparation, submittal, review and response to a grievance are confidential. Correspondence regarding a grievance should be handled in a confidential manner, and envelopes containing grievance material should be clearly labeled "confidential." No reference to the complaint shall be included in the employee's official personnel file.

Copies of written responses sent at each step of the procedure are limited to respondents at the preceding steps, the agency head or the agency head's designee unless it is necessary to notify additional personnel because the response requires another individual to take some action.

No person shall directly or indirectly use any official authority or influence in any manner to discourage the use of this procedure. Any person found guilty may be subject to penalty under ADOA Personnel Rule R2-5-501.

3. Representation

At any step of the grievance procedure after the mandatory pre-grievance oral discussion (see below), grievants may select one representative to provide advice and/or speak for the grievants at any meetings determined necessary by management in the course of the grievance process. An ADOA employee who serves as a representative is required to request and obtain prior approval for annual or compensatory leave for any time devoted as a representative during regular working hours. If a representative is chosen, the representative shall be identified on the grievance form.

4. Group Grievance

Should a group of employees file a grievance, all employees of the group are required to sign the grievance and to clearly designate, on the grievance form, one member who will act as the group's contact person. The contact person will act as a speaker for the group in any meetings determined necessary by management.

5. Preparation Time

During the entire formal grievance process (after the oral discussion at Step I), employees are allowed up to four hours with pay to prepare the grievance and/or confer with their official representative on the grievance. Employees cannot use state equipment for this process. Employees must request and obtain prior supervisory approval for time off, which will be subject to the operational needs of the unit. The time an employee devotes to attending any meetings scheduled by management to discuss the grievance is considered work time and is not included in the four-hour limitation specified above.

6. Extensions

The ADOA Personnel Rules require that the agency head respond to a grievant not later than 40 working days after receipt of the grievance at the first step. Within the 40 working days requirement, the time at any step may be extended by the agency head with concurrence of the grievant. IF AT ANY STEP THE RESPONSE IS NOT MADE WITHIN THE PRESCRIBED TIME AND NO EXTENSION HAS BEEN AGREED UPON, THE EMPLOYEE MAY SUBMIT TO THE NEXT STEP.

7. Mandatory Oral Discussion

In accordance with Personnel Rule R2-5-702.A.1, the employee is REQUIRED to have an oral discussion with the immediate supervisor prior to initiating a formal grievance. The employee must clearly state to the supervisor the employee's intentions of filing a formal grievance, the issues involved, and the requested resolution. The purpose of the meeting is for both parties to explore the issues and the requested resolution. If the employee fails to take this step, the grievance WILL NOT be accepted through the formal grievance procedure. It is the employee's responsibility to remember that the Step I grievance must be submitted within 10 working days after the occurrence of the action being grieved, and that these 10 days are not extended by the date on which the oral discussion takes place.

The employee may select a representative at any step after the oral discussion with the supervisor.

PROCEDURES:

When an employee wants to submit a basic grievance, the employee must: Use the appropriate form; state the problem and outline all of the specific facts, circumstances and issues involved; provide all the appropriate documentation to support the allegations; state the specific resolution which is sought; if a Personnel Rule violation is alleged, the specific rule alleged to have been violated must be stated as well as an explanation of how the rule was violated; and, the employee must sign the grievance at each step and state why the response at the previous level was not satisfactory.

The employee must also meet the mandatory oral discussion requirement prior to submitting the complaint and adhere to the required time limitation for submitting a grievance.

1. Step I

- a. The Step I responding authority is the employee's immediate supervisor.
 - b. The time limit for submitting the grievance is 10 working days from the date of the action being grieved. If a suspension is being grieved, the date of the action is considered to be the first day of the suspension. The date the action occurred is not counted when determining the time limit. The mandatory oral discussion must take place within this ten day limitation.
 - c. At Step I, the immediate supervisor has 10 working days to review the complaint and to issue a written Step I response.
 - d. If the employee is dissatisfied with the Step I response, the employee has five working days from the date of receipt of the Step I response to elevate the complaint to Step II. The employee elevating the complaint to Step II must:
(i) Sign the grievance on the bottom of the front page of the form; (ii) Write (and sign) a cover memo to the Assistant Director, which specifically states the reason the Step I response is unsatisfactory and, (iii) Attach the entire original grievance packet to this cover memo.
2. Step II
 - a. The Step II responding authority is the Assistant Director of the division
 - b. The Assistant Director has 10 working days from the date of receipt of the grievance to review the complaint and to issue a written response.
 - c. If the employee is dissatisfied with the Step II response, the employee has five working days to elevate the complaint to Step III and must: (i) Sign the grievance on the bottom of the front page of the form; (ii) Write (and sign) a cover memo to the Director which specifically states the reason the Step II response is unsatisfactory; and, (iii) Must attach the entire complaint packet to the cover memo.
3. Step III
 - a. The Step III responding authority is the Director.
 - b. The Director has 10 working days from the date of receipt of the grievance to review the complaint and to issue a written response.
 - c. Step III is the final step for all grievances except those alleging a Personnel Rule violation or discrimination.
4. Step IV (Alleged Personnel Rule violation or discrimination only)
 - a. A Department of Administration employee who is not satisfied with the Director's decision on a grievance alleging a Personnel Rule violation or discrimination, may resubmit the grievance to the Director within five working days after receipt of the decision.
 - b. The Director will appoint an individual who is not an employee of the Department of Administration and who serves in a position that is assigned to manage an agency's employee relations or investigations work unit to investigate the resubmitted grievance.

- c. If the facts of the grievance support the Director's decision, the investigator shall affirm that resolution.
- d. If the facts do not support that decision, the investigator shall conduct an investigation and furnish a copy of the findings and final decision to the Director and the grievant within 20 working days following receipt of the grievance by the investigator. The 20 working days may be extended by the investigator with the concurrence of the grievant.
- e. The decision of the investigator is the final step.